

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Mail Stop: ISSUE FEE**
Hiroshi IWAI et al. : **Confirmation No. 3093**
Serial No. 10/790,857 : Group Art Unit 2831
Filed March 3, 2004 : Examiner John X. Zhu

HUMAN PHANTOM APPARATUS,
FINGER PHANTOM APPARATUS, AND
APPARATUS FOR MEASURING
CHARACTERISTIC OF ANTENNA USING
THE SAME PHANTOM APPARATUS

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.705(b), Applicant respectfully requests that the Patent Term Adjustment (“PTA”) for this Application be increased from 281 days, as indicated in the Notice of Allowance, to 963 days.

According to the Patent Term Adjustment History, Applicant is responsible for 348 days of delay and the PTO is responsible for 629 days of delay. Applicant respectfully submits, however, that the 348 days of Applicant delay is incorrect for the following reasons.

The present application was filed on March 3, 2004, with a clear indication therein that the correspondence address is as follows:

WENDEROTH, LIND & PONACK, L.L.P.
2033 K Street, N.W., Suite 800
Washington D.C. 2006-1021

On July 6, 2004, Applicant filed a NOTIFICATION OF INVENTORSHIP CHANGE OF ADDRESS, which indicated that the address of the second inventor, Atsushi YAMAMOTO, as

listed on the accompanying executed declaration was correct, and was being changed from the address as listed on the unexecuted declaration.

On January 22, 2007, a Restriction Requirement was mailed by the USPTO, but instead of sending the Restriction Requirement to the above-noted correspondence address, the Restriction Requirement was mailed directly to the second inventor, Atsushi YAMAMOTO. Thus, it is clear that the USPTO incorrectly changed the correspondence address to that of the second inventor, while the above-noted NOTIFICATION OF INVENTORSHIP CHANGE OF ADDRESS merely requested that the USPTO records be updated to reflect the correct address of the second inventor.

On February 8, 2007, the above-noted Restriction Requirement mailed on January 22, 2007 was returned to the USPTO as being undelivered.

On June 4, 2007, the Restriction Requirement was again mailed by the USPTO, but was once again incorrectly mailed to the address of the second inventor, rather than to the proper correspondence address.

On June 21, 2007, the above-noted Restriction Requirement mailed on June 4, 2007 was returned to the USPTO as being undelivered.

On March 21, 2008, the Restriction Requirement was mailed to the correct correspondence address (i.e., Wenderoth, Lind & Ponack, LLP, 2033 K Street, N.W., Suite 800 Washington D.C. 2006-1021). Thus, it is evident that the USPTO recognized their error (i.e., incorrectly changing the correspondence address to that of the second inventor), and made the necessary correction.

On April 4, 2008, Applicant filed a response to the Restriction Requirement mailed on March 21, 2008.

As is evident from the Patent Term Adjustment History, Applicant has been held responsible for 348 days of delay, with this period starting from the first incorrect mailing of the Restriction Requirement on January 22, 2007, to the date on which a response was filed (i.e., April 4, 2008) to the first correct mailing of the Restriction Requirement. However, because the Restriction Requirement was mailed to the incorrect address due to an error made by the USPTO,

Applicant submits that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the examination under 37 CFR 1.704.

Accordingly, Applicant respectfully submits that it is improper to hold Applicant responsible for the above-noted 348 days of delay, because this delay was due solely to the USPTO's error in incorrectly changing the correspondence address for the present application.

Instead, Applicant submits that the USPTO should be held responsible for the delay up to the first correct mailing of the Restriction Requirement on March 21, 2008. Thus, it is believed that the total USPTO delay should be from the March 3, 2004 filing date of the present application to the first correct mailing date of the Restriction Requirement on March 21, 2008, which according to Applicant's calculations, is a total of 963 days.

It is noted that no Terminal Disclaimer has been filed in the present application.

Any questions regarding this matter should be directed to the undersigned at the telephone number listed below.

The statutory fee of \$200.00 set forth in 37 CFR 1.18(e) is to be charged to the credit card.

Applicant authorizes the Commissioner to charge any deficiencies in fees, or any additional fee, that may be required in connection with this communication to Deposit Account No. 23-0975.

Respectfully submitted,

Hiroshi IWAI et al.

/Kenneth W. Fields/
By 2009.01.23 15:21:32 -05'00'
Kenneth W. Fields
Registration No. 52,430
Attorney for Applicants

KWF/krg
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
January 23, 2009